

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

VHT, INC., a Delaware corporation,
Plaintiffs,

v.

ZILLOW GROUP, INC., a Washington
corporation; and ZILLOW, INC., a
Washington corporation,
Defendant(s).

Case No. 2:15-cv-01096-JLR

**DEFENDANT ZILLOW'S NOTICE OF
MATTERS FOR CONSIDERATION
AT PRE-TRIAL CONFERENCE**

Defendant Zillow provides the Court with this notice of matters that Zillow believes may be productively addressed at the final pretrial conference. These issues are relevant to process, pleading, or proof at trial and thus fall under the ambit of LCR 16(l)(2) as appropriate for consideration at a pretrial conference. The parties have discussed each of these issues during meet and confer sessions in conjunction with preparation of the proposed pretrial order, but have been unable to reach agreement.

- (1) Whether, as a result of the Court's order on dispositive motions, evidence about technical issues concerning operation of Zillow's Listing Site (HDPs), including the trumping rules, "evergreen" and "deciduous" classifications, and on-sale or off-sale status, should be excluded as irrelevant, confusing, and a waste of time.

1 (2) Whether, in light of the Court's order on dispositive motions, the time for trial in this
2 case can be reduced to five trial days.

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4 (3) Whether the Court will permit the opposing party to question witnesses outside the scope
5 of the proffering party's examination in order to avoid the need for certain witnesses to
6 be called to the stand twice (once in plaintiff's case and once in defendant's).

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8 In addition to identifying these unresolved issues, Zillow hereby notifies the Court that, in
9 light of the order on dispositive motions, Zillow no longer opposes the relief sought by VHT in its
10 motion in limine concerning VHT's motive for filing this suit. *See* Dkt 192 at pp. 5-9. Zillow
11 stipulates that it will not make any argument or seek to elicit any testimony concerning VHT's
12 motive for filing the present suit against Zillow, nor will it offer any documents into evidence for
13 the purpose of demonstrating such motive, which is the relief Zillow understood VHT to be seek-
14 ing in this motion in limine. During further meet and confer discussions, VHT has indicated that it
15 seeks exclusion of particular documents or testimony concerning certain events for any purpose,
16 not only as evidence of VHT's motive. The parties are continuing discussions with respect to this
17 evidence in an effort to reach agreement before the pretrial conference.
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2 Dated: January 5, 2017.

Respectfully submitted,

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4 By: /s/ Edgar G. Sargent

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22 **CERTIFICATE OF SERVICE**

23 I hereby certify that on January 5, 2017, I electronically filed the foregoing with the Clerk of
24 the Court using the CM/ECF system, which will send notification of such filing to all counsel of
25 record.
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/s/ Edgar G. Sargent